

AMENDED IN SENATE MARCH 17, 2016

SENATE BILL

No. 1029

Introduced by Senator Hertzberg

February 12, 2016

An act to amend Section 8855 of the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1029, as amended, Hertzberg. California Debt and Investment Advisory Commission: accountability reports.

Existing law establishes the California Debt and Investment Advisory Commission to, among other things, maintain contact with state and municipal bond issuers, underwriters, investors, and credit rating agencies to improve the market for state and local government debt issues, and assist state and local governments to prepare, market, and sell its debt issues. Existing law requires the commission to collect, maintain, and provide comprehensive information on all state and all local debt authorization and issuance, and serve as a statistical clearinghouse for all state and local debt issuance.

This bill would additionally require the commission to track and report on all state and local outstanding debt until fully repaid or redeemed.

Existing law requires the issuer of debt of state or local government to submit reports to the commission, within specified ~~time frames~~, *timeframes*, of the proposed issuance of debt and of final sale, as provided.

This bill would require that the report of proposed debt include a certification by the issuer that it has adopted local debt policies, which

include specified provisions, concerning the use of debt and that the contemplated debt issuance is consistent with those local debt policies.

This bill would also require the issuer of any debt issue of state or local government that has either outstanding debt or debt that has been authorized by voter approval or by action of the issuer but not yet issued as of the end of the prior fiscal year to, no later than January 1 of each year, provide a debt accountability report to the commission that includes specified information with respect to each authorized debt issue as of the end of the prior fiscal year.

By adding to the duties of local officials with respect to reports to the commission, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8855 of the Government Code is amended
- 2 to read:
- 3 8855. (a) There is created the California Debt and Investment
- 4 Advisory Commission, consisting of nine members, selected as
- 5 follows:
- 6 (1) The Treasurer, or his or her designee.
- 7 (2) The Governor or the Director of Finance.
- 8 (3) The Controller, or his or her designee.
- 9 (4) Two local government finance officers appointed by the
- 10 Treasurer, one each from among persons employed by a county
- 11 and by a city or a city and county of this state, experienced in the
- 12 issuance and sale of municipal bonds and nominated by
- 13 associations affiliated with these agencies.
- 14 (5) Two Members of the Assembly appointed by the Speaker
- 15 of the Assembly.
- 16 (6) Two Members of the Senate appointed by the Senate
- 17 Committee on Rules.

1 (b) (1) The term of office of an appointed member is four years,
2 but appointed members serve at the pleasure of the appointing
3 power. In case of a vacancy for any cause, the appointing power
4 shall make an appointment to become effective immediately for
5 the unexpired term.

6 (2) Any legislators appointed to the commission shall meet with
7 and participate in the activities of the commission to the extent
8 that the participation is not incompatible with their respective
9 positions as Members of the Legislature. For purposes of this
10 chapter, the Members of the Legislature shall constitute a joint
11 interim legislative committee on the subject of this chapter.

12 (c) The Treasurer shall serve as chairperson of the commission
13 and shall preside at meetings of the commission.

14 (d) Appointed members of the commission shall not receive a
15 salary, but shall be entitled to a per diem allowance of fifty dollars
16 (\$50) for each day's attendance at a meeting of the commission
17 not to exceed three hundred dollars (\$300) in any month, and
18 reimbursement for expenses incurred in the performance of their
19 duties under this chapter, including travel and other necessary
20 expenses.

21 (e) The commission may adopt bylaws for the regulation of its
22 affairs and the conduct of its business.

23 (f) The commission shall meet on the call of the chairperson,
24 at the request of a majority of the members, or at the request of
25 the Governor. A majority of all nonlegislative members of the
26 commission constitutes a quorum for the transaction of business.

27 (g) The office of the Treasurer shall furnish all administrative
28 assistance required by the commission.

29 (h) The commission shall do all of the following:

30 (1) Assist all state financing authorities and commissions in
31 carrying out their responsibilities as prescribed by law, including
32 assistance with respect to federal legislation pending in Congress.

33 (2) Upon request of any state or local government units, to assist
34 them in the planning, preparation, marketing, and sale of debt
35 issues to reduce cost and to assist in protecting the issuer's credit.

36 (3) Collect, maintain, and provide comprehensive information
37 on all state and all local debt authorization and issuance, track and
38 report on all state and local outstanding debt until fully repaid or
39 redeemed, and serve as a statistical clearinghouse for all state and
40 local debt. This information shall be available to the public.

1 (4) Maintain contact with state and municipal bond issuers,
2 underwriters, credit rating agencies, investors, and others to
3 improve the market for state and local government debt issues.

4 (5) Undertake or commission studies on methods to reduce the
5 costs and improve credit ratings of state and local issues.

6 (6) Recommend changes in state laws and local practices to
7 improve the sale and servicing of state and local debts.

8 (7) Establish a continuing education program for local officials
9 having direct or supervisory responsibility over municipal
10 investments and debt issuance. The commission shall undertake
11 these and any other activities necessary to disclose investment and
12 debt issuance practices and strategies that may be conducive for
13 oversight purposes.

14 (8) Collect, maintain, and provide information on local agency
15 investments of public funds for local agency investment.

16 (9) Publish a monthly newsletter describing and evaluating the
17 operations of the commission during the preceding month.

18 (i) (1) The issuer of any proposed debt issue of state or local
19 government shall, no later than 30 days prior to the sale of any
20 debt issue, submit a report of the proposed issuance to the
21 commission by any method approved by the commission. This
22 subdivision shall also apply to any nonprofit public benefit
23 corporation incorporated for the purpose of acquiring student loans.
24 The commission may require information to be submitted in the
25 report of proposed debt issuance that it considers appropriate.
26 Failure to submit the report shall not affect the validity of the sale.
27 The report of proposed debt issuance shall include a certification
28 by the issuer that it has adopted local debt policies concerning the
29 use of debt and that the contemplated debt issuance is consistent
30 with those local debt policies. A local debt policy shall include all
31 of the following:

32 (1)

33 (A) The purposes for which the debt proceeds may be ~~used or~~
34 ~~are prohibited:~~ *used.*

35 (2)

36 (B) The types of debt that may be ~~issued or prohibited:~~ *issued.*

37 (3)

38 (C) The relationship of the debt to, and integration with, the
39 issuer's capital improvement program or ~~budget:~~ *budget, if*
40 *applicable.*

1 ~~(4)~~
2 (D) Policy goals related to the issuer's planning goals and
3 objectives.

4 ~~(5)~~
5 (E) The internal control procedures that the issuer has
6 implemented, or will implement, to ensure that the proceeds of the
7 proposed debt issuance will be directed to the intended ~~use upon~~
8 ~~completion of the issuance~~; use.

9 (2) *In the case of an issue of bonds the proceeds of which will*
10 *be used by a governmental entity other than the issuer, the issuer*
11 *may rely upon a certification by that other governmental entity*
12 *that it has adopted the policies described in subparagraphs (C),*
13 *(D), and (E) of paragraph (1), and references to the "issuer" in*
14 *those subparagraphs shall be deemed to refer instead to the other*
15 *governmental entity.*

16 (j) The issuer of any debt issue of state or local government,
17 not later than 21 days after the sale of the debt, shall submit a report
18 of final sale to the commission by any method approved by the
19 commission. A copy of the final official statement for the issue
20 shall accompany the report of final sale. If there is no official
21 statement, the issuer shall provide each of the following documents,
22 if they exist, along with the report of final sale:

- 23 (1) Other disclosure document.
24 (2) Indenture.
25 (3) Installment sales agreement.
26 (4) Loan agreement.
27 (5) Promissory note.
28 (6) Bond purchase contract.
29 (7) Resolution authorizing the issue.
30 (8) Bond specimen.

31 The commission may require information to be submitted in the
32 report of final sale that it considers appropriate. The issuer may
33 redact confidential information contained in the documents if the
34 redacted information is not information that is otherwise required
35 to be reported to the commission.

36 (k) (1) The issuer of any debt issue of state or local government
37 that has either outstanding debt or debt that has been authorized
38 by voter approval or by action of the issuer but not yet issued as
39 of the end of the prior fiscal year shall, no later than January 1 of
40 each year, provide a debt accountability report to the commission

1 that includes the following information with respect to each
2 authorized debt issue as of the end of the prior fiscal year:

3 (A) The principal amount of the issue then outstanding.

4 (B) The amount of proceeds of the issue that remain unspent.

5 (C) The amount of debt authorized by the bond act or other
6 appropriate authorization relevant to the issue that remains
7 authorized but not issued.

8 (D) A list of the purposes for which the debt has been issued
9 and the amounts expended for each purpose in the prior fiscal year
10 from the proceeds of the issue.

11 (E) Any additional information the commission deems
12 appropriate to fulfill its statutory duties, to be provided in a format
13 prescribed by the commission.

14 (2) The requirements of subparagraphs (A) to (C), inclusive, of
15 paragraph (1) may be satisfied by submitting to the commission a
16 certified copy of the issuer's annual report of financial transactions
17 for the immediately preceding fiscal year submitted to the
18 Controller, as required by Section 12463, in the form and manner
19 prescribed by the commission.

20 SEC. 2. If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.